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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,763	02/11/2004	David J. Freger	6743-0003-1	3453
7590	02/22/2006			
McCormick, Paulding & Huber LLP CityPlace II 185 Asylum Street Hartford, CT 06103-3402			EXAMINER LAU, TUNG S	
			ART UNIT 2863	PAPER NUMBER

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H-1

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/776,763	Applicant(s) FREGER ET AL.	
	Examiner Tung S. Lau	Art Unit 2863	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: DETAILED ACTION
Response to Arguments

1. Applicant's arguments filed 02/06/2006 have been fully considered but they are not persuasive.

Reminds to the applicants that "The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

A. Applicant argues in the arguments that the prior art does not show the 'pulse train including observability evaluation is satisfactory' in claim 1, 19 or 25. While this limitation present in claim 1, it is not present in claim 19 or 25.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., 'pulse train including observability evaluation is satisfactory' in claim 19 or 25) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As regards to claim 1, Holzrichter clearly discloses when the Sn of ratio is too small, the detection system switch to quadrature mode to increase the Sn ratio of the signal to determine distance traveled in Col. 12-13, Lines 65-8, at least this disclosure discloses 'pulse train including observability evaluation is satisfactory'.

B. Applicant continues to argue in the arguments that the prior art does not show the 'a pulse transit-time based method for distance measurement', Holzrichter clearly discloses a pulse transit-time based method (fig. 5, unit 81) for distance measurement' in Col. 12-13, Lines 65-8.

C. Applicant continues to argue in the arguments that the prior art does not show the 'means for minimizing the effect of measured distance distortion', Holzrichter clearly discloses many method to 'minimize the effect of measured distance distortion. First, Holzrichter uses signal compensation method to increase the signal Col. 11, Lines 35-67; Second, Holzrichter uses phase offset to increase the signal in Col. 12, Lines 1-64; Third, Holzrichter uses quadrature mode output to increase the signal in Col. 12-13, Lines 65-8; Fourth, Holzrichter uses repetitive pulse frequencies to increase it signal in Col. 15-26, Lines 64-34.

D. Applicant continues to argue in the arguments that the prior art does not show the 'means for evaluating obsevability of pulse transit time through analysis of patterns of pulses', Holzrichter clearly discloses many 'means for evaluating obsevability of pulse transit time through analysis of patterns of pulses'. First, Holzrichter uses 'evaluating obsevability of pulse transit time through analysis of patterns of pulses by compensating the signal in Col. 11, Lines 35-67; Second, Holzrichter evaluating obsevability of pulse transit time through analysis of patterns of pulses using phase offset of the signal in Col. 12, Lines 1-64; Third, Holzrichter evaluating obsevability of pulse transit time through analysis of patterns of pulses using quadrature mode output to increase the signal in Col. 12-13, Lines 65-8; Fourth, Holzrichter uses evaluating obsevability of pulse transit time through analysis of patterns of pulses by repetitive pulse frequencies to increase it signal in Col. 15-26, Lines 64-34.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL


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